

**Please Direct All Correspondence to Customer Number 20995**

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**TERMINAL DISCLAIMER UNDER 37 CFR § 1.321**

Applicant : Koller, et al.  
App. No : 10/814,966  
Filed : March 30, 2004  
For : OPTOINJECTION METHODS  
Examiner : James S. Ketter  
Art Unit : 1636

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

***Disclaimer by Assignee***

Assignee, Cyntellect, Inc. ("Assignee"), hereby disclaims, except as provided below, the terminal part of any patent granted on the above-referenced application which would extend beyond the expiration date of the full statutory term of U.S. Patent No. 6,753,161, and hereby agrees that any patent so granted on the above-identified '966 application shall be enforceable only for and during such period that the '966 application and the '161 patent are commonly owned. This agreement extends to any patent granted on the above-referenced '966 application and shall be binding on Assignee, its successors or assigns.

Assignee does not disclaim any terminal part of any patent granted on the above-referenced application prior to the earlier of the expiration date of the full statutory term defined in Title 35 of the United States Code, including the term as defined in 35 U.S.C. §§ 154, 155, 155A, 156 and 173, of the '161 patent. In making the above disclaimer, Assignee does not disclaim the terminal part of any patent granted on the '966 application that would extend to the expiration date of the full statutory term, as defined in Title 35 of the United States Code, including the term as defined in 35 U.S.C. §§ 154, 155, 155A, 156 and 173, of any patent issued directed from the '966 application in the event that either the '966 application or the '161 patent (1) later expires for failure to pay a maintenance fee, (2) is held unenforceable, (3) is found invalid, (4) is statutorily disclaimed in

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whole or terminally disclaimed under 37 C.F.R. § 1.321(a), (5) has all claims canceled by a reexamination certificate, (6) is reissued, or (7) is otherwise terminated prior to expiration of its full statutory term provided under Title 35, except for the separation of legal title stated above.

***Right of Assignee and Ownership***

In accordance with 37 C.F.R. § 3.73(b), Assignee represents that it is the owner of a 100 percent interest in the above-identified '966 application and the '161 patent. Assignee is owner of a 100 percent interest in the above-identified '966 application by virtue of an assignment recorded at Reel No. 017492, Frame No. 0022; a merger recorded at Reel No. 018045, Frame No. 0869; and a name change recorded at Reel No. 017492, Frame No. 0408 and Reel No. 018054, Frame No. 0254 by the Assignment Branch of the Patent and Trademark Office. Assignee is owner of a 100 percent interest in the above-identified '161 patent by virtue of an assignment recorded at Reel No. 012482, Frame No. 0748; a merger recorded at Reel No. 017492, Frame No. 0022; and a name change recorded at Reel No. 017492, Frame No. 0408 by the Assignment Branch of the Patent and Trademark Office. The Assignee represents that, to the best of Assignee's knowledge and belief, the '966 application and the '161 patent are commonly owned and title is in the Assignee seeking to take action.

***Empowerment of Attorney***

Pursuant to 37 C.F.R. 1.321(a) the undersigned attorney of record is empowered to act on behalf of the Assignee, by virtue of a Power of Attorney.

This Terminal Disclaimer is accompanied by the \$130 fee set forth in 37 C.F.R. § 1.20(d).

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR LLP

Date: February 22, 2007

  
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